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TIMOTHY J. WALZ
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VETERANS' AFFAIRS
Oversight

October 5, 2007

The Honorable Silvestre Reyes
Chairman
House Intelligence Committee
H-405, U.S. Capitol
Washington, DC 20515

The Honorable John Conyers
Chairman
House Judiciary Committee
2138 RHOB
Washington, DC 20515

Dear Chairman Reyes and Chairman Conyers:

On August 4, 2007, the U.S. House of Representatives passed S. 1927, the Protect America Act of 2007. Despite some serious reservations I had about the bill's impact on the civil liberties of Americans, I voted in favor of this legislation because it made some necessary updates to the original FISA law and because it included a sunset provision that would give Congress six months to improve the bill's civil liberty protections.

The sunset provisions in S. 1927 give Congress an opportunity to revisit this debate and make improvements to the FISA law. I am grateful to each of you for working to improve this legislation and for holding hearings over the past month. Although I do not serve on your respective committees, I want to share with you my concerns about specific provisions of S. 1927 that I will not be able to support should they be included in any future version of this legislation that comes before the House.

As you know, S. 1927 gives the Attorney General and the Director of National Intelligence greater freedom to pursue foreign targets communicating with other foreign targets using the U.S. telecommunications system. It also allows the DNI and the AG to surveil foreign targets who are communicating with persons within the United States without a warrant. Although a U.S. person cannot be the target of surveillance without a warrant, their communication can be swept up in the surveillance of a foreign target.

While I appreciate that the bill includes some safeguards—both the AG and DNI must agree on a target, both officials must submit their procedures to the FISA court for review, and the agency conducting surveillance must use minimization procedures to protect the identity of those Americans whose communications have been intercepted—I am concerned that those safeguards do not adequately protect constitutional civil liberties.

My support of any new FISA reform legislation will be contingent on whether that legislation includes stronger oversight of the procedures the AG and DNI use to choose a foreign target and whether the new legislation adequately protects the civil liberties of Americans whose communications may be caught up in the surveillance of a foreign target.

I am also concerned about recent proposals to provide retroactive immunity for telecommunications firms that might have participated in the President's illegal Terrorist Surveillance Program. I cannot fairly consider legislation that includes blanket immunity until Congress receives additional information about past actions by the Bush Administration. To date, Congress has been denied access to that information.

I supported S. 1927 because it provided a sunset period in which further improvements to the law could be made. My support for any future FISA reform legislation will depend on whether Congress has crafted an improved bill that strikes an appropriate balance between national security interests and civil liberties. If the legislation being considered by the House does not meet that standard, I will reluctantly have no choice but to oppose it.

I appreciate the opportunity to share with you my concerns about this issue and I am grateful to you for your work in developing this important legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim J. Walz", written in a cursive style.

Tim J. Walz

MEMBER OF CONGRESS